

DUANE A. SINGLETON,)	No. C 11-2106 LHK (PR)
)	
Plaintiff,)	ORDER GRANTING
)	EXTENSION OF TIME TO FILE
v.)	APPLICATION TO PROCEED
)	IN FORMA PAUPERIS
CALIFORNIA DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Defendants.)	
)	


On May 9, 2011, Plaintiff filed a letter indicating that he had filed a non-prisoner IFP form because he was not and is not a prisoner. A review of the docket and the relevant pleadings demonstrates that on March 10, 2011, the Board of Parole Hearings (“Board”) learned that Plaintiff was not in custody and could not be located. (Complaint, Ex. A.) As a result, the Board suspended Plaintiff’s parole. (*Id.*) On March 15, 2011, Plaintiff was arrested and booked into custody. (*Id.* and Ex. F.)

1 Ordinarily, a plaintiff is permitted to file a civil action in federal court without
2 prepayment of fees or security if he files an affidavit that he is unable to pay such fees or give
3 such security. *See* 28 U.S.C. § 1915(a). If the plaintiff is a “prisoner” who alleges that he is
4 unable to pay the full filing fee at the time of filing, he must submit (1) an affidavit that includes
5 a statement of all assets he possesses, and (2) a certified copy of the trust fund account statement
6 (or institutional equivalent) for the prisoner for the six-month period immediately preceding the
7 filing of the action, obtained from the appropriate official of each prison at which the prisoner is
8 or was confined. *See* 28 U.S.C. § 1915(a)(1), (2). For purposes of proceeding IFP under Section
9 1915, the definition of a “prisoner” is “any person incarcerated or detained in any facility who is
10 accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law
11 or the terms and conditions of parole, probation, pretrial release, or diversionary program.” *See*
12 28 U.S.C. § 1915(h). Here, at the time Plaintiff filed his complaint, he was detained at the Santa
13 Rita Jail after being accused of violating the terms and conditions of his parole. Accordingly,
14 Plaintiff must file a prisoner application for IFP rather than a non-prisoner application.

15 Because Plaintiff misunderstood the Clerk’s deficiency notice, the Court will sua sponte
16 grant him an extension of time to either file a completed prisoner application to proceed IFP or
17 pay the full filing fee within **thirty days** of the filing date of this order. The Clerk shall provide
18 Plaintiff with a new IFP application and instructions for completing it. **Plaintiff is cautioned**
19 **that his failure to either file a completed prisoner application for IFP or pay the filing fee**
20 **within thirty days will result in the dismissal of this action.**

21 IT IS SO ORDERED.

22 DATED: 6/7/11


LUCY H. KOH
United States District Judge